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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,377	01/12/2001	Robert E. Dvorak	BLFR 1003-1	1255

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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/760,377

Applicant(s)

DVORAK ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. The following is a non-final, first office action on the merits. Claims 1-95 are pending.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations of the claims must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

3. Claims 96 is objected to because it has been misnumbered. The claims are numbered 91, 92, 93, 94, 96, omitting claim 95. Therefore, claim 96 should more appropriately be claim 95,

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with claims 1-95 pending in this application. Claim 96 has been construed as claim 95 in the current rejections.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-15, 20-34, 39-53, 58-72, and 77-91 are rejected under 35 U.S.C. 102(a) as being anticipated by Technology Strategy, Inc. ([www.grossprofit.com](http://www.grossprofit.com)). The following references describe the different features of the service performed by Technology Strategy, Inc.:

- i. Screenshots of [www.grossprofit.com](http://www.grossprofit.com), which is Technology Strategy, Inc.'s homepage (referred to herein as references A);
- ii. Article "Merchants Try Complex Math Tools to Improve Inventory Decisions" by Koloszyc from Stores Magazine (referred to herein as reference B);
- iii. Article "Looking Back to Fashion's Future" by Ackerman from The Boston Globe (referred to herein as reference C).

5. As per claim 1, Technology Strategy, Inc. teaches an improved management decision support system, including a computer system having memory and resources, a retail demand forecasting program applying one or more forecasting approaches, running on the computer system and generating output, and a set of analysis programs, running on the computer system and utilizing the output, said analysis programs generating at least one of (a) order of goods from a supplier-related data (b) allocation of the goods to be shipped by the supplier-related data, or

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(c) distribution of goods to selling locations-related data (See reference A, page 1, section 3, page 2, sections 2-3, page 4, sections 2-4, and page 8, section 2, reference B, page 1, sections 1 and 3, page 2, sections 3-5, and page 3, section 2-5, and reference C, page 3, section 4, which discloses a computer system that supports decisions by applying forecasting techniques, running these techniques on the computer to generate output that is used to at least generate order of goods from a supplier-related data or distribution of goods to selling locations-related data), the improvement comprising:

a causal calendar utilized by the forecasting program to generate the output, said causal calendar including for a plurality of events attributes of a good identifier, a selling location identifier, the event start date, the event stop date, and the event type (See at least reference A, page 1, section 3, page 2, sections 2-3, page 4, sections 2-4, and page 8, section 2, reference B, page 1, sections 1-3, page 2, sections 3-5, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, wherein a schedule associated with specific dates is used to forecast, the schedule associating good-sellers with data including an identified good, a location of the good, and quantities of the good to be sold between a start and stop date (such as a season), and the type); and

one or more additional analysis programs in the set of analysis programs generating data reported in at least two of: open to buy reports, markdown management reports, bottom-up planning reports; or top-up planning reports (See at least reference A, page 1, section 3, page 2, sections 2-3, page 4, sections 2-4, and page 8, section 2, reference B, page 1, sections 1-3, page 2, sections 3-5, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, which discloses markdown management and open to buy analysis (i.e. the program plans a

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markdown schedule to maximize sales and also considers current inventory and current causal factors as the items are available to be bought) and top-down and bottom-up planning (i.e. considers the highest level of planning beyond the actual inventory information, such as regional differences and seasonal information that is independent of a specific item and the system plans inventory from the current to the future)).

6. As per claim 2, Technology Strategy, Inc. teaches wherein a pair of the good identifier and event identifier attributes associate a single good at a single selling location with one of the plurality of events (See at least reference A, page 1, section 3, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 1, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, wherein a single good at a single selling location is stored).

7. As per claim 3, Technology Strategy, Inc. wherein a pair of the good identifier and event identifier attributes associate a single good at a group of selling locations with one of the plurality of events (See at least reference A, page 1, section 3, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 1, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, wherein a single goods behavior at different stores in a chain is stored and analyzed).

8. As per claim 4, Technology Strategy, Inc. teaches wherein a pair of the good identifier and event identifier attributes associate a group of goods at a single selling location with one of the plurality of events (See at least reference A, page 1, section 3, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 1, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, wherein data of the performance of goods at a single selling location is stored).

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9. As per claim 5, Technology Strategy, Inc. discloses wherein a pair of the good identifier and event identifier attributes associate a group of goods at a group of selling locations with one of the plurality of events (See at least reference A, page 1, section 3, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 1, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, wherein goods behavior at different stores in a chain is stored and analyzed).

10. As per claim 6, teaches wherein the attributes of the causal calendar further includes a factor corresponding to the impact of the event on sales (See at least reference A, page 1, section 3, page 2, sections 2-3, page 4, sections 2-4, and page 8, section 2, reference B, page 1, sections 1-3, page 2, sections 3-5, and page 3, section 2-5, and reference C, page 2, section 4, and page 3, sections 4-5, wherein a schedule associated with specific dates is used to forecast, the schedule associating good-sellers with data including an identified good, a location of the good, and quantities of the good to be sold between a start and stop date (such as a season), and the type).

11. As per claims 7-9, Technology Strategy, Inc. teaches an improved system, wherein the set of analysis programs is adapted to basic retail goods, to seasonal retail goods, and to fashion retail goods (See at least reference A, page 2, section 2, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 5-6, and page 3, section 2-5, and reference C, page 2, sections 3-4, which discloses retail goods, seasonal retail goods, and fashion goods).

12. As per claim 10, Technology Strategy, Inc. teaches an improved system wherein the set of analysis programs operate on daily or more frequent period forecasts (See at least reference B, page 2, sections 6-7, reference C, page 2, section 4, wherein the life cycle demand forecast includes daily forecasts).

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13. As per claim 11, Technology Strategy, Inc. teaches an improved system wherein the set of analysis programs operate on weekly forecasts (See at least reference A, page 2, section 2, and page 4, sections 2-4, and reference B, page 2, section 7, which discusses weekly forecasts).

14. As per claim 12, Technology Strategy, Inc. teaches an improved system wherein the set of analysis programs operate on pairings of individual goods in individual selling locations (See at least reference A, page 2, section 2, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 5-6, and page 3, section 2-5, and reference C, page 2, sections 3-4, and page 3, sections 4-5, wherein the analysis program operates on pairings of individual goods, such as blue shirt and green shirt in an array of sizes).

15. As per claim 13, Technology Strategy, Inc. teaches an improved system, wherein the set of analysis programs operate on groups of goods in individual selling locations (See at least reference A, page 2, section 2, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 5-6, and page 3, section 2-5, and reference C, page 2, sections 3-4, and page 3, sections 4-5, wherein an individual stores sales is analyzed).

16. As per claim 14, Technology Strategy, Inc. teaches an improved system wherein the set of analysis programs operate on individual goods in groups of selling locations (See at least reference A, page 2, section 2, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 5-6, and page 3, section 2-5, and reference C, page 2, sections 3-4, and page 3, sections 4-5, wherein an individual good is analyzed based on regional information and selling channel, or an individual item is looked at based on size/color information).

17. As per claim 15, Technology Strategy, Inc. teaches an improved system wherein the set of analysis programs operate on groups of goods in groups of selling locations (See at least



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reference A, page 2, section 2, and page 4, sections 2-4, reference B, page 1, sections 1-3, page 2, sections 5-6, and page 3, section 2-5, and reference C, page 2, sections 3-4, and page 3, sections 4-5, wherein groups of goods in groups of selling locations are analyzed (such as items in inventory per store, items per selling channel, etc.)).

18. Claims 20-34 recite equivalent limitations to claims 1-15, respectively, and are therefore rejected using the same art and rationale set forth above.

19. Claims 39-53 recite equivalent limitations to claims 1-15, respectively, and are therefore rejected using the same art and rationale set forth above.

20. Claims 58-72 recite equivalent limitations to claims 1-15, respectively, and are therefore rejected using the same art and rationale set forth above.

21. Claims 77-91 recite equivalent limitations to claims 1-15, respectively, and are therefore rejected using the same art and rationale set forth above.

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-19, 35-38, 54-57, 73-76, and 92-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Technology Strategy, Inc. (see above).

23. As per claims 16-19, Technology Strategy, Inc. discloses a computer system with a database and data warehouse. Analyses are run on Technology Strategy, Inc.'s own site and/or the client's site and/or in an independent customized software tool that can be run on an ongoing

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basis. Technology Strategy, Inc. further discusses running the analyses, using the results to plan for the products, stores, etc., saving these results and plan, and updating the results/plan as the season progresses (See at least reference A, page 4, sections 1-4, page 5, section 1-2, and page 8, sections 1-2, reference B, page 2, sections 1 and 6-7, and page 3, sections 1-5, and reference C, page 2, section 4, and page 3, section 5, wherein Technology Strategy, Inc. discusses these computer-related features).

However, Technology Strategy, Inc. does not expressly disclose displaying the analysis on a monitor in communication with the computer system (claim 19), saving the analysis in a spreadsheet file format (claim 20), printing the analysis on paper, microfiche, or optical media (claim 21), or distributing the analysis by e-mail or other messaging facility (claim 22).

Technology Strategy, Inc. discloses a computer system that runs models using data stored in the databases and data warehouses of the system to create a forecast. The forecast is saved in the system and updateable throughout the season. Technology Strategy, Inc. further discloses the use of the Internet and “product-izing” the model into a customized software tool that can be run on an ongoing basis. Viewing information stored in a computer on a monitor or printing out this information using a printer was well known in the computer industry at the time of the invention. Saving information of a database in a spreadsheet file format was well known in the computer industry at the time of the invention. Furthermore, distributing information of an Internet based tool via email was well known in the computer industry at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include these known computer-related features in the computer system of Technology Strategy, Inc. in order to more efficiently utilize the information stored in the system

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by taking advantage of the benefits computers and automation have to offer. It was well known in the art at the time of the invention that computers and automation made it easier to save, distribute, and update information in a reliable and efficient manner.

24. Claims 35-38 recite equivalent limitations to claims 16-19, respectively, and are therefore rejected using the same art and rationale set forth above.

25. Claims 54-57 recite equivalent limitations to claims 16-19, respectively, and are therefore rejected using the same art and rationale set forth above.

26. Claims 73-76 recite equivalent limitations to claims 16-19, respectively, and are therefore rejected using the same art and rationale set forth above.

27. Claims 92-95 recite equivalent limitations to claims 16-19, respectively, and are therefore rejected using the same art and rationale set forth above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ross et al. (U.S. 6,370,509) teaches a demand planning presentation.

Dulaney et al. (U.S. 6,341,269) discloses an inventory management system that optimizes inventory by using cost information, store level information, etc.

Huang et al. (U.S. 5,953,707) teaches a database management system that utilizes said data for capacity planning.

Huang et al. (U.S. 6,151,582) discloses a decision support system that analyzes stored data to support supply decisions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*bvd*

bvd

November 12, 2004

*Susanne Diaz*  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**  
*A-4 3623*